

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENTUCKY ENERGY TRANSMISSION	)	
CORPORATION, INC.	)	
_____	)	CASE NO. 92-177
	)	
ALLEGED VIOLATION OF KRS	)	
278.160	)	

O R D E R

This proceeding was initiated by Commission Order entered May 1, 1992 for Kentucky Energy Transmission, Inc. ("Kentucky Energy") to show cause why it should not be penalized for operating as an unauthorized utility due to its failure to file a tariff with this Commission pursuant to KRS 278.160. During the course of proceedings in Case No. 90-290,<sup>1</sup> a capital lease purchase agreement<sup>2</sup> was filed which included documentation that Kentucky Energy had entered into a transportation agreement to transport natural gas for Burkesville Gas, Inc. ("Burkesville Gas").

On May 22, 1992, Kentucky Energy filed a proposed tariff and rate schedule with the Commission stating that gas transportation is provided pursuant to special contract. Attached to the tariff were copies of the transportation agreement between Kentucky Energy

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<sup>1</sup> Case No. 90-290, Investigation to Determine Whether an Adequate Means for Delivery of Gas is Available to Burkesville Gas Company, Inc.

<sup>2</sup> The capital lease purchase agreement is currently under review by the Commission in Case No. 92-178, Burkesville Gas Company, Inc., Ken-Gas of Kentucky, Inc., and Ken Turner, Alleged Violation of KRS 278.300.

and Burkesville Gas entered into December 23, 1991 and an Addendum to the agreement effective January 30, 1992. The Addendum references a specific provision of the capital lease purchase agreement referenced herein, stipulating that Burkesville Gas shall pay monies otherwise owed to Kentucky Energy for transportation of gas directly to the Bank of Clinton County to pay toward a Kentucky Energy debt with that bank.

The tariff filed with attached documentation indicates that Kentucky Energy began transporting gas for Burkesville Gas on January 30, 1992, over 4 months prior to the date that Kentucky Energy filed its tariff with the Commission. Exhibit A of the transportation agreement establishes a charge of 40 cents per Mcf for gas transported to Burkesville Gas. The term of the agreement is for 1 year and is automatically extended for 1 year increments for a total period of 25 years.

During the June 16, 1992 hearing in Case No. 90-290, Ken Turner, president and general manager of Kentucky Energy, testified that the 40-cent rate was determined as a fair charge for transportation since that was all the distribution system could afford.<sup>3</sup> In addition, Burkesville Gas stated that it considers the 40-cent rate to be fair,<sup>4</sup> and testified during the hearing that the Bank of Clinton County required the terms of the Addendum which assigns

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<sup>3</sup> Transcript of Evidence ("T.E."), June 16, 1992, page 139.

<sup>4</sup> Id., page 86.

Kentucky Energy monies collected under the terms of the transportation agreement.<sup>5</sup>

The Commission has previously accepted tariffs from gas transporting utilities in which the rate is set pursuant to a special contract. After a review of the tariff and attached documents filed by Kentucky Energy, the Commission finds that Kentucky Energy is operating as a gas transporting utility and that the tariff and transportation agreement appear reasonable. However, since the copy of the transportation agreement submitted May 22, 1992 is unsigned, Mr. Turner should submit an executed copy signed by all parties.

IT IS THEREFORE ORDERED that:

1. Kentucky Energy is operating as a gas transporting utility pursuant to Commission Order in Administrative Case No. 297.<sup>6</sup>

2. The tariff filed by Kentucky Energy on May 22, 1992 shall be accepted as filed with the exception that Kentucky Energy shall submit to the Commission within 14 days of the date of this Order an executed copy of the transportation agreement signed by all parties.

3. This case be and it hereby is closed.

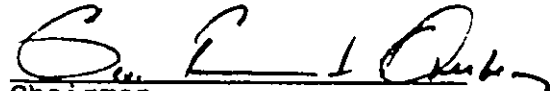
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<sup>5</sup> Id., pages 76, 87.

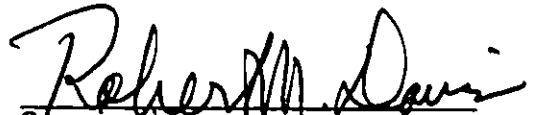
<sup>6</sup> Administrative Case No. 297, An Investigation of the Impact of Federal Policy on Natural Gas to Kentucky Consumers and Suppliers.

Done at Frankfort, Kentucky, this 28th day of October, 1992.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director